GOVERNMEMT OF ANDHRA PRADESH

ABSTRACT

M.A. &U.D. Department – Sri Sk. Mujahiddin, Assistant Engineer, Nellore Municipal Corporation - Regularization of service from 01-07-1999 instead of 19-05-2006 – Orders – Issued.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (G1) DEPARTMENT

G.O.Rt.No.518 Dated:16.11.2020

Read the following:-

1. G.O. Rt. No. 553 MA &UD Dept, Dated 19.05.2006/
2. From the DMA, A.P., Hyderabad Lr.Roc.No.7597/ 2008/M2, Dt:25-02-2016.
3. Orders dt:15.03.2011 of the Hon'ble APAT in OA No.2424/2008.
4. Orders dt: 05.07.2012 of the Hon'ble High Court in WP.No.10254/2012.
5. Govt. Memo No.180217/G1/2016, Dated:26.04.2017
6. Orders dt:25.10.2018 of the Hon'ble High Court in WP.No. 32729 of 2018.
7. Govt. Memo No. No.180217/G1/2016, Dated:24.03.2020.
8. Govt. Memo. No.180217/G1/2016, dated:26.03.2019
9. From the Hon'ble High Court, A.P., Amaravati, CC.No.235 of 2019 in W.P.No.32729 of 2018, Dated.25.10.2018.
10. From the Commissioner, Nellore Municipal Corporation, R.O.C.No.449/ 2011 /E1, dated:05.03.2020.
11. SLP Diary No.18199 of 2020 against the WP No.10254 of 2012, dated:05.07.2012.
12. CC.No.235 of 2019 in WP.No. 32729 of 2018.

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O R D E R:

In the reference 2nd read above, the Commissioner & Director of Municipal Administration has reported that Sri Sk. Mujahiddin was initially appointed as Electrician on 01.11.1988 on NMR basis in the Nellore Municipal Corporation. Later, his service was regularized as Electrician in Nellore Municipal Corporation in the exiting Vacancy against the OC category, subject to fulfilling all the conditions of G.O. Ms. No. 212 i.e. clear regular Vacancy, qualifications, effect from the date of issue of orders i.e. prospectively. The applicant Sri Sk. Mujahiddin, Municipal Assistant Engineer, Nellore Municipal Corporation has approached the AP Administrative Tribunal by filing O.A.No.2424/2008. The Hon'ble AP Administrative Tribunal was pleased to allow the OA No.2424/2008 directing the respondents vide its orders dt 15.03.2011 as follows:-

(PTO)

" The respondents are directed to regularize the service of the applicant as Electrician from 01.07.1999, the date in which the vacancy arose in the post of Electrician, in which post his service were regularized vide G.O.Rt.No.553. However, the applicant in not eligible for arrears of pay, but he is eligible only for notional fixation of pay."

2. The said orders were assailed before the Hon'ble High Court in WP No. 10254/2012 by the Commissioner, Nellore Municipal Corporation and the same was dismissed by the Hon'ble High Court on 05.07.2012 by confirming the orders passed by the AP Administrative Tribunal. The Hon'ble High Court has passed the following orders in the said WP :-

" G.O.Ms.No.212 dated 22.04.1994 clearly provides that such regularization should be done with effect from the date of arising of the corresponding vacancy subject to completing five years of service by the cut-off date i.e.25.11.1993. There is dispute that the vacancy arose on 01.07.1999 and the applicant got necessary qualification. Thereby the regularization of the applicant in the post should have been done with effect from 01.07.1999. Hence, we see no infirmity in the order passed by the Tribunal. The writ petition is devoid of merits and liable to dismissed."

3. In view of the above orders of the Hon'ble High Court, Government, after careful examination of the matter in consultation with the Law & Finance Department, have issued orders rejecting the claim of the Petitioner for regularization of his service from 01-07-1999 instead of 19-05-2006, vide reference 5th read above.

4. Aggrieved by the above, Sri S.K.Mujahiddin, Municipal Assistant Engineer, Nellore Municipal Corporation has again approached the Hon'ble High Court by filing WP.No.32729/2018, in which the Hon'ble High Court in its orders dated:25.10.2018 in WP.No.32729/ 2018 has issued following directions :-

" The write petition is accordingly allowed directing the respondent authorities to give effect to and implement the order dated 15.03.2011 passed by the Tribunal in O.A.No.2424 of 2008, which stood confirmed by this Court by order dated 05.07.2012 passed in W.P.No.10254 of 2012. This exercise shall be completed expeditiously and in any event, not later than six weeks from the date of receipt of a copy of this order."

5. The Commissioner, Nellore Municipal Corporation in his letter 9th read above has reported that he has filed SLP No.144/2020 before the Hon'ble Supreme Court of India against the Judgment of the Hon'ble High Court dated:25.10.2018 in W.P.No.32729/2018 and the said petition was dismissed by the Hon'ble Supreme Court in its order dt. 3.2.2020 with an observation thus " we are not inclined

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to interfere with the earlier order of the Hon'ble High Court dated:05.07.2012 which attained finality. The special leave petition is dismissed.

6. The Commissioner, Nellore Municipal Corporation has filed a Review Petition (Civil) No. 16914 of 2020 for review of the Hon'ble Supreme Court Orders dt. 03.02.2020 in SLP No. 3278 of 2020 (Dairy No.144/2020) before the Hon'ble Supreme Court. Further, he has also filed SLP questioning the orders dated:05.07.2012 passed in Writ Petition No. 10254 of 2012 by the Hon'ble High Court and the said SLP is numbered as Diary No 18199 of 2020.

7. As the matter stood thus, the CC No. 235 of 2019 filed by the Petitioner for compliance of the orders dated 25.10.2018 in Writ Petition No.32729 of 2018 has come up before the Hon'ble High Court on 09.09.2020. and the Hon'ble Hon'ble High Court, AP, Amaravati Court directed to implement the order dated 05.07.2012 .

8. In the meanwhile, the Hon'ble Supreme Court of India, New Delhi in its order dt. 8.9.2020, (which was received on 14.09.2020) in the Review petition No. 16914/2020 in SLP No. 3278 of 2020 filed by Commissioner, Nellore Municipal Corporation has passed the following order:-

> " *The review petition suffers from delay of 160 days for which there is no sufficient explanation. Even otherwise having gone through the materials in the review petition and after considering the same, no case for review is made at all.*
>
> *The review petition is dismissed on the ground of delay as well as on merits.*
>
> *Pending applicant (s), if any, shall stand disposed of."*

9. Further, in the SLP (Civil) Diary No. 18199/2020 filed by the Department against the earlier order dt. 5.7.2012 in W.P. No. 10254/2012 was called on before the Hon'ble Supreme Court for hearing on 15.10.2020 and upon hearing, the Hon'ble Supreme Court has dismissed the SLP on the ground of delay.

10. Govt. after careful consideration of the matter have decided to implement the orders of the Hon'ble High Court, AP, Amaravati in W.P.No.10254/2012, dated.05.07.2012.

11. Accordingly, Govt., hereby order to regularise the services of the Petitioner, Sri Sk. Mujahiddin, Assistant Engineer in the cadre of Electrician from the date of arising

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of vacancy i.e., w.e.f. 01.07.1999 instead of regularizing prospectively from 19-05-2006 as issued vide G.O. Rt.No.553, MA&UD Dt.19.05.2006, in compliance with the orders of the Hon'ble High Court dated. 05-07-2012 in W.P. No 10254/2012 and subsequent order dated. 25.10.2018 in W.P. No.32729/2018, subject to the condition that the order shall not be treated as a precedent in similar situated cases. And also he is not eligible for arrears of pay, but, only for notional fixation of pay.

12. This order issues with the concurrence of Finance (FMU-EFS&T,MA&UD,CRDA) Department. Vide their U.O.No. FMU0ASD/19/2019 (Computer No: 766622), dated.18.10.2020.

13. The Commissioner & Director of Municipal Administration, A.P, Guntur/ Commissioner, Nellore Municipal Corporation shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

J. SYAMALA RAO
SECRETARY TO GOVERNMENT

To
The Commissioner & Director of Municipal Administration, AP, Guntur.
The Commissioner, Nellore Municipal Corporation
Sri Sk. Mujahiddin, Assistant Engineer, Nellore Municipal Corporation **through the Commissioner & Director of Municipal Administration, AP, Guntur.**

Copy to:-
The Govt. Pleader for MA UD(S), APHC, Amaravati.
The Finance (FMU-EFS&T,MA&UD,CRDA) Department.
SF/SCs.

//FORWARDED :: BY ORDER//

SECTION OFFICER